

PREPARED STATEMENT OF JOHN D. FEERICK

My name is John D. Feerick and I am President of the Association of the Bar of the City of New York. Thank you very much for the opportunity to testify before the Senate Judiciary Committee today regarding the nomination of Judge Ruth Bader Ginsburg to the United States Supreme Court.

The Association of the Bar of the City of New York is one of the oldest bar associations in the country, and since its founding in 1870 has given priority to the evaluation of candidates for judicial office. Our Committee on the Judiciary was one of the four committees formed at the Association's inception. As far back as 1874, the Association has reviewed and commented on the qualifications of candidates for the United States Supreme Court. We have also studied the Senate Confirmation process, and last year submitted to this Committee a report and recommendations with regard to the process. It is thus a particular honor to participate in the confirmation process for this highly distinguished nominee, who is also a member of our Association and served on our Executive Committee from 1974 to 1978.

In May 1987, the Association adopted a policy that directs the Executive Committee, our governing body, to evaluate all candidates for appointment to the United States Supreme Court. The Executive Committee has developed an extensive procedure for evaluating Supreme Court nominees, including a process for conducting research, seeking views of persons with knowledge of the candidate and of our membership, and evaluating the information received. The Committee then applies what it learns about a candidate to a rigorous set of guidelines comprising qualifications we believe are essential in a Supreme Court Justice. Indeed, Judge Ginsburg is the first nominee to be evaluated under this set of guidelines. The Association's effort was largely undertaken by the work of a joint subcommittee of our Executive Committee and our Committee on the Judiciary.

In examining the qualifications of Judge Ginsburg, the following materials were reviewed:

- all of Judge Ginsburg's more than 300 written opinions, concurrences and dissents while sitting on the U.S. Court of Appeals for the D.C. Circuit;

- published articles and lectures by Judge Ginsburg;
- information relating to Judge Ginsburg's 1980 D.C. Circuit nomination and confirmation;
- comments solicited from Association members, presented in writing and at a forum held at the Association; and
- news articles, commentaries and other materials with regard to the nomination.

Members of the Executive Committee also interviewed Judge Ginsburg. In addition, dozens of interviews were conducted with her judicial colleagues, academic colleagues and former law clerks, and lawyers who litigated with and against or argued before Judge Ginsburg.

The Executive Committee, upon evaluating the qualifications of Judge Ginsburg, passed the following resolution at its meeting of July 14, 1983:

The Association of the Bar of the City of New York finds that Judge Ruth Bader Ginsburg is qualified to be a Justice of the United States Supreme Court based on the Executive Committee's affirmative finding that she possesses to a substantial degree all of the qualifications enumerated in the Association's Guidelines for evaluation of nominees to the United States Supreme Court:

- exceptional legal ability
- extensive experience and knowledge of the law
- outstanding intellectual and analytical talents
- maturity of judgment
- unquestionable integrity and independence
- a temperament reflecting a willingness to search for a fair resolution of each case before the Court
- a sympathetic understanding of the Court's role under the Constitution in the protection of the personal rights of individuals
- an appreciation of the historic role of the Supreme Court as the final arbiter of the meaning of the United States Constitution, including a sensitivity to the respective powers and reciprocal responsibility of Congress and the Executive.

The Association's Guidelines do not provide for gradations of ratings, and thus only permit a rating of qualified or unqualified. These guidelines do, however, establish a very high standard, a standard which Judge Ginsburg clearly meets.

We look forward to a long and exceptional career on the Supreme Court for Judge Ginsburg.

I will be pleased to answer your questions.

The CHAIRMAN. Well, we are very grateful that you would take such time and with such thoroughness examine the record of nominees. One of the reasons why we do, in fact, ask your association to be here is because of its over 100-year practice of being involved.

I have often wanted to ask you, and I will reserve it now for maybe over a cup of coffee, what you all did during the Tammany Hall days. I would like to know more about that.

Mr. FEERICK. I have to research that myself.

The CHAIRMAN. I am serious. It would be a fascinating thing to look at. I have often wondered whether or not the origins of the practice of the bar of New York City of looking into judicial nominations was a response to the patronage system and concern about it that existed in the days of the late 19th century. It has just been an historical curiosity on my part. Maybe if the historian of the association knows the answer to that, I would appreciate being dropped a note for my own edification, no other reason.

Mr. FEERICK. You are certainly correct in pointing to corruption in New York as being a precipitating cause of the founding of our bar association, which is exactly right.

The CHAIRMAN. I thank you for your testimony.

Mr. FEERICK. Thank you.

The CHAIRMAN. Now, Mr. Wiesenfeld, it is a pleasure to have you here. You have been immortalized by your being a participant, and a named participant, in one of the most significant Supreme Court cases of the last 20 years, and maybe longer, and it is a pleasure to have you here. The floor is yours for 5 minutes.

STATEMENT OF STEPHEN WIESENFELD

Mr. WIESENFELD. Thank you, Chairman Biden. Senators, I would like to thank you for inviting me here, and I would also like to thank my very special friend, Jane DeFalco, sitting behind me, for accompanying me here today.

The CHAIRMAN. Welcome, Ms. DeFalco.

Mr. WIESENFELD. My wife, Paula, and I were married in 1970. Not unlike Martin Ginsburg and his wife, Ruth Bader Ginsburg, we were among the pioneers of alternative family lifestyles. Paula was a high school math teacher at Edison High School in Edison, NJ, and she was completing studies for her Ph.D. She wanted her career in school administration.

I, having already received several graduate degrees, and having already seen big business, decided to be a self-employed consultant. It was our plan that I would take on the primary household chores, including those related to the raising of our son, Jason.

In 1972, my wife, Paula, passed away. She worked right up to the last day. With each paycheck, she made the maximum contribution to the Social Security system. When she died, I approached the Social Security office in New Brunswick, NJ, and applied for the insured benefits for myself and our son, Jason. I was denied widow's benefits.

At that time, the law allowed that both men and women alike would contribute to the Social Security insurance system based upon their earnings. If the male died, his Social Security insurance would then accrue to pay benefits to the family he left behind. If the woman died, even though her contribution was equal to that